

84-0103

Turbism



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SPECIAL

December 28, 1983

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

Department of State
Department of Justice
Central Intelligence Agency ✓
National Security Council

SUBJECT: Treasury and DOT views on terrorism legislation

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than

Tuesday, January 3, 1984.

Direct your questions to Gregory Jones (395-3856), of this office.


James C. Murr for
Assistant Director for
Legislative Reference

Enclosures

cc: Tracy Lawler



DEPARTMENT OF THE TREASURY
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20220

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Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative Reference

Dear Sir:

This is in response to your request for the views of this Department on "5 bills on terrorism". ((1) Terrorist Control Act of 1984, (2) Aircraft Sabotage Act, (3) Act for the Prevention and Punishment of the Crime of Hostage-Taking, (4) Act for Rewards for Information Concerning Terrorist Acts, and (5) Prohibition Against the Training or Support of Terrorist Organizations Act of 1983.)

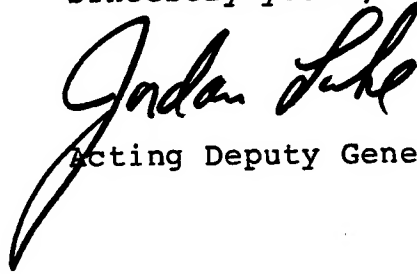
The current 18 U.S.C. 956, as well as the proposed 18 U.S.C. 956 and 18 U.S.C. 1118, in the bill entitled the "Terrorist Control Act of 1984," are susceptible to the interpretation that they cover official acts of the U.S. Government. Both sections make it a crime for two or more persons to conspire to commit certain crimes against persons or property within or outside the United States.

While we have been advised that the Department of Justice may have ruled that 18 U.S.C. 956 does not cover official governmental acts, we believe that any amendment to that section, and any proposed similar legislation, should explicitly exempt these acts of state from the coverage of the statute. In our view, both planning and preparation for, as well as actual operations during, the Grenada rescue operation and other special activities that could involve U.S. military forces and/or resources of the U.S. intelligence community might be treated as falling within 18 U.S.C. 956 and the proposed section 1118. Failing to provide a comprehensive exception for official acts of state while we are expanding the scope of section 956 and adding 1118 could be perceived as evidence that official acts of the U.S. Government are intended to be covered. That would be a thoroughly unacceptable proposition and should not be left to chance.

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We understand that J. Robert McBrien, Deputy for Security Affairs and Crisis Management, has provided similar comments to the Interdepartmental Group on Terrorism. Mr. McBrien is a member of the Interdepartmental Group on Terrorism.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jordan Luke". The signature is written in a cursive, flowing style with a large initial "J" and a long, sweeping underline.

Acting Deputy General Counsel

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U.S. Department of
Transportation
Office of the Secretary
of Transportation

400 Seventh St., S.W.
Washington, D.C. 20590

The Honorable David A. Stockman
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Stockman:

This is in response to your request for the views of the Department of Transportation on five terrorism bills developed by the Interagency Group on Terrorism: Terrorist Control Act of 1984; Aircraft Sabotage Act; Act for the Prevention and Punishment of the Crime of Hostage Taking; Act for Rewards for Information concerning Terrorist Acts; and Prohibition Against the Training or Support of Terrorist Organizations Act of 1983.

We have no objection to the proposed bills. We do, however, have several comments concerning the Aircraft Sabotage Act:

1. Section 2(a). In order to better track the language of the Montreal Convention, the section should read "...requires each State party to it to establish its jurisdiction...."
2. Section 3(a)(4), Definition of "In Flight". In order to better track the language of the Montreal Convention, the section should read "...any time from the moment when all the external doors of an aircraft are closed...."
3. Section 4(b). As currently drafted, the proposal would change section 901(a)(2) of the FFA Act to read "Any civil penalty may be compromised by the Secretary of Transportation in the case of violations of subsections (c) and (d) of this section or title III, V, VI, or XII of this Act...." Because new subsections (c) and (d) are drafted differently from titles III, V, VI, and XII, it is inappropriate to refer to "violations of" those subsections. Rather, new subsections (c) and (d) merely state that whoever commits certain acts is subject to specified civil penalties. Thus, one does not "violate" the subsections.

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Therefore, we recommend that section 4(b) be changed so that it would insert the words "penalties provided for in subsections (c) or (d) of this section or" after the words "Secretary of Transportation in the case of". This would amend section 901(a)(2) of the FFAct to read "Any civil penalty may be compromised by the Secretary of Transportation in the case of penalties provided for in subsections (c) and (d) of this section or violations of titles III, V, VI, or XII of this Act, or any rule, regulation, or order issued thereunder...."

4. Page 3, footnote 1 of the Section-by-Section Analysis (quoting 49 U.S.C. 1301(38)) should be changed on the third from the last line; "case of a force landing" should read "case of a forced landing,".

We have enclosed a marked-up draft incorporating these changes.

Sincerely,

General Counsel

Enclosure